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ABSTRACT

A sample of high school principals, sponsors/advisers, and student editors were surveyed concerning their knowledge of communication law in relation to freedom of the press under the First Amendment. The sample of 126 schools was drawn by random numbers from 202 schools in 31 states. Related court decisions were selected and adapted into ten composite cases and submitted to the sample, along with requests for some additional items related to their opinions and backgrounds. Each respondent was asked to indicate how he thought a judge might decide on each of the case items. Forty percent (151) of the subjects responded. A statistical analysis was computed for the number of correct responses to each case item by class of respondent. Also, for each case item within each of the respondent classes, cross-reference analyses were made in terms of the education, journalism background, and professional education experience of the respondents. (Author/MLF)

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DO PRINCIPALS NEED GUIDELINES ON FIRST AMENDMENT RIGHTS OF THE STUDENT PRESS?

Research Report Vol. 7, No. 5 August, 1977

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EA 009 875

DO PRINCIPALS NEED GUIDELINES ON FIRST AMENDMENT RIGHTS OF THE STUDENT PRESS?

by
C. Robert Blackmon and E. Joseph Broussard

The experience of Dr. Blackmon, as a reporter, newspaper editor, high school publications sponsor, teacher, and principal, and the experience of Dr. Broussard, as a reporter, newspaper editor, TV broadcaster, Director of the LSU Journalism Extension Service, and Director of the Louisiana Scholastic Press Association, led the principal investigators to expect intuitively that the level of knowledge of communication law in regard to First Amendment freedom is less than complete on the part of the persons most directly concerned with the day-to-day production of high-school newspapers. Search of the literature reveals numerous discussions of the problem area, particularly regarding a few major court decisions, but there are relatively few related research studies. Captive Voices, the Kennedy Report, dramatically highlighted -- through its reporting of both the ignorance of the affected parties and the abuse of student rights by some administrators -- the need for study of this turbulent area of the school activities program.

PURPOSE OF THE STUDY

The purpose of this study was to survey principals, sponsors/advisers, and student editors concerning their knowledge of communication law in relation to freedom of the press under the First Amendment. The data gathered will provide a basis for the development of guidelines by the principal researchers for dissemination to persons concerned with or responsible for supervising or producing a high-school newspaper.

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PROCEDURES

A search of the related literature was made in order to conceptualize the problem. Related court decisions were selected and digested into ten composite cases to be submitted to high-school principals, newspaper advisers, and student editors, along with requests for some additional items related to their opinions and backgrounds.

The frame of 126 schools was drawn by random numbers from 202 schools in 31 states. The schools were identified through the aid of members of the National Conference of Professors of Educational Administration. Each respondent was asked to indicate for each case how he thought a judge might decide on each of the case items. One hundred fifty-one (40%) subjects responded, including 42 of 126 principals (33%), 61 of 126 advisers (48%), and 48 of the 126 student editors (38%).

Simple statistics were tabulated, and chi-square tests were computed for the number of correct responses to each case item by class of respondent. Also, for each case item within each of the respondent classes, cross reference chi-square tests were made in terms of survey information items given by respondents on their education, journalism background, and professional education experience.

THE INSTRUMENT

The instrument presented below is the one used for survey of the principals. The first ten items, the hypothetical cases, do not differ from the ten case items presented to the advisers and student editors.

The material presented in italics following each case item was not included on the survey instrument. That information summarizes the cases which the authors used as foundations for construction of the ten hypothetical case items.

YOU BE THE JUDGE!

Please indicate (with a check in one of the blanks below each case) the way you believe a judge would decide each of the cases described below.

1. This month's issue of the school newspaper attacks the way police and law enforcement officials handled a situation at the school and Jews on the campus. Can the Principal stop publication of the paper?
   1. Yes 2. No 1. No

   Near v. Minnesota, 283 U.S. 697,51 S.Ct. 625 (1931). The U.S. Supreme Court ruled that the state government could not forbid a newspaper to publish because it had made scurrilous attacks on law enforcement officers and Jews. In effect, authorities could not exercise prior restraint of publication. However, in N.Y. Times v. Sullivan, if such publication were done without malice, the material would not be considered actionable libel. On prior restraint see also: Leibner v. Sharbaugh, E.D. U.S. D. Ct., No. 77-0 111-A, Feb. 25, 1977.

2. This month's issue of the school newspaper unintentionally contains incorrect information of a damaging nature to the Superintendent of Schools and School Board Members for some of their public actions. Can the Principal stop publication of the paper?
   1. Yes 2. No 2. No

   Near v. Minnesota. See citation and notes above. Irresponsible as such a publication might be, prior restraint cannot be exercised because the statements are not libelous until published.

3. Several students distribute an underground newspaper that criticizes the Principal and his assistants and strongly urges that the student body disregard specific school regulations. Can the Principal stop distribution of the underground paper?
   1. Yes 2. No 3. No

   Scoville v. Joliet Township High School District 204, 425 F. 2d 10 (7th Cir. 1970), cert. den. 400 U.S. 826 (1970). Students could not be suspended for distributing an underground newspaper criticizing school administrators and urging to not obey specific school regulations. The appellate court ruled for the students on the grounds that school officials had insufficient evidence to reasonably show that disruption would occur upon distribution of the publication. (See Tinker.)

4. Student Chris Broussard's unposed picture was used in the school newspaper in an advertisement in a manner giving the impression of her endorsement of a local bank. A suit is filed in her behalf by her parents contending that the ad invaded her privacy. Has her privacy been invaded?
   1. Yes 2. No 4. Yes

Barber v. Time, Inc., 348 No. 119, 159 S.W. 2d 291, 293 (1942). Also, Pavesich v. New England Life Insurance Co., 122 Ga. 190, 50 S.E.68 (1905). Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684 (1961). Griswold v. Connecticut, 381 U.S. 479, 85 S.Ct. 1678 (1965). Time, Inc. v. Hill, 385 U.S. 374, 87 S.Ct. 534 (1967).

5. The school's student editorial board votes to run an anti-Vietnam War advertisement in the school newspaper. The Principal says that such ads will not be run in the paper as long as he is principal of the school. Can he stop publication of the ad?
1. Yes 2. No 5. No

Zucker v. Panitz, 68 Civ. 1339, 299 F. Supp. 102 (S.D. N.Y., May 15, 1969). A student paper has the right to publish a paid advertisement opposing the war in Vietnam even though school authorities feel the paper should be concerned primarily with school-related issues and should accept only commercial ads. To permit only commercial ads would unconstitutionally discriminate against nonmercantile ads and would violate the students' First Amendment right to express themselves on "matters intimately related to them through traditionally nondisruptive modes of communication."

6. This month's issue of the school newspaper uses a "four-letter" word in one of its headlines. Can the Principal stop publication of the paper?
1. Yes 2. No 6. No

Papish v. the Board of Curators of the University of Missouri, 331 F. Supp. 1321 (D.C. No. 1971), U.S. Sup. Ct. Reports, L.W. 3496, 1973, p. 639. (See also Channing Club, Bazaar v. Fortune, and Tinker.)

7. Students are distributing an underground newspaper that contains profanity and vulgarity just outside of the main gate of the school. Can the Principal stop distribution of the paper?
1. Yes 2. No 7. No

Baker v. Downey City Board of Education, 307 F. Supp. 517 (C.D. Cal. 1969), established the so-called "Downey principle" which would seem to support the principal who thought he could stop distribution. However, during the intervening years a string of cases has eroded that principle. Jacobs v. Indianapolis Board of School Commissioners, 349 F. Supp. 605 (Ind. 1972). See Miller v. California and Riseman v. School Committee of Quincy. Fujishima v. Board of Education, 460 F.2d at 1359.

8. Students distributed an underground newspaper on their school's campus and students read the newspaper during class. Can the Principal suspend the students who distributed the paper?
1. Yes 2. No 8. No

Sullivan v. Houston Independent School District, 307 F. Supp. 1328 (S.D. Tex. 1969).

9. This month's issue of the school newspaper attacks state government disproportionate taxes on white and blue collar workers. Can the Principal suspend the editor for writing an editorial that attacks state government?
1. Yes 2. No 9. No

Dickey v. Alabama State Board of Education, 273 F.Supp. 613 (M.D. Ala. 1967). See also Tinker and Scoville.

10. This month's issue of the school newspaper has a story that says sexually active students at the school are not using contraceptives. Can school officials stop publication of the story?
1. Yes 2. No 10. No

Gambino v. Fairfax, 45 L.W. 2414 (E.D. Va. 1977).

The section below is a continuation of the YOU BE THE JUDGE questionnaire sent to principals. It was designed to elicit information about their background, education, and journalistic experience to compare with their responses to case items one through ten.

11. Have you ever been employed as a journalist? 1. Yes 2. No
If YES, what position?_____

12. Have you studied journalism? 1. No. 2. Had one or more courses 3. Have a degree in journalism?

13. Have you had any experience with student distribution of (an) underground newspaper(s) on or near your campus? 1. Yes 2. No

14. Have you ever been a Sponsor/Adviser for a high school newspaper? 1. Yes 2. No

15. Have you experienced any problem similar to those on the checklist above? 1. No 2. Yes If YES, which Case Number(s)?_____

16. Have you had a course in communications law? 1. Yes 2. No

17. Have you had a course in education law? 1. Yes 2. No

18. How many years of experience have you had as a high-school principal? 1. 0-3 2. 4-10 3. 11-20 4. 20+

19. Is your school newspaper financed in part from advertising?
    1. Yes 2. No

20. Does your school have a school publications editorial board?
    1. Yes 2. No

21. Your sex: 1. Female 2. Male

FINDINGS

Table 1 below presents the percentage of correct responses to the ten hypothetical case items by principals, sponsors/advisers, and student editors. As the table indicates, while significant differences were found, the principals were not the high scorers.

Comparatively, the student editors scored highest on six of the case items, the advisers on four, and the principals on one. The differences in scores on two of the case items were significant, and on two were approaching significance. Additionally, Table 2 is presented below for readers to inspect the actual scores by class of respondents.

For the eleven items of data requested following the principal's response to case items one through ten, a chi-square test was made case item by data item. In the paragraphs below the authors have summarized the chi-square test data for the ten case items in reports on each of the principal's data items for numbers 11 through 21.

Table 1

Percentage of Correct Responses
by
Principals, Advisers, and Editors

Case Item No.	Principals	Advisers	Editors	All Respondents	Level at which Differences were Significant
1	66.7%	73.8%	68.8%	70.2%	
2	12.0	27.8*	14.6	19.2	Approaching * (.08)
3	21.4	32.8	50.0*	35.1	.01*
4	86.0	86.9	79.1	84.1	
5	71.4	65.6	66.7	67.5	
6	14.3	34.4	39.6*	30.5	.02*
7	76.2	77.0	77.1	76.8	
8	45.2	49.1	60.4	51.7	
9	92.9	96.7	93.8	94.7	
10	54.8	65.6	77.1*	66.2	Approaching * (.08)
Mean	54%	60%	63%	60%	

The numbers underlined above represent the highest score in the row for each case.

Table 2

Record of Responses by Principals, Advisers, and Editors

Case Item Number	Principals		Advisers		Editors		Total	
	R	W	R	W	R	W	R	W
1	28	14	45	16	33	15	106	45
2	5	37	17	44	7	41	29	122
3	9	33	20	41	24	24	53	98
4	36	6	53	8	38	10	127	24
5	30	12	40	21	32	16	102	49
6	6	36	21	40	19	29	46	105
7	32	10	47	14	37	11	116	35
8	19	23	30	31	29	19	78	73
9	39	3	59	2	45	3	143	8
10	23	19	40	21	37	11	100	51
Total	227	193	372	238	301	179	900	610
Percentage	54%	46%	60%	40%	63%	37%	60%	40%
	N=151	N=42		N=61		N=48		

Case Items 1 Through 10 Versus Data Item 1

Percentage of Correct Responses of Principals to Case Items 1 Through 10 In Relation to Questionnaire Item 11 "Have you ever been employed as a journalist?"

Although the difference was not significant, on all case items except case 10 the principals who had been employed as journalists had a higher percentage of correct answers than those who had not been so employed. On four cases 1, 4, 7, and 9 the journalist-principals scored 100% versus the non-journalists (63, 84, 74, and 92, respectively). Only on case 10 did the non-journalist principals score higher than the journalist-principals (58% v. 25%).

Item No.	Had Had Journalistic Employment	Had Had No Journalistic Employment
1	100%	63%
2	25%	11%
3	25%	21%
4	100%	84%
5	75%	71%
6	25%	13%
7	100%	74%
8	50%	45%
9	100%	92%
10	25%	58%
Mean	62.5	53.2

Percentage of Correct Responses of Principals to Case Items 1 Through 10 In Relation to Questionnaire Item 12

"Have you had one or more courses in journalism?"
"Do you have a degree in journalism?"

Although the difference was not significant for each of the ten case items, two were approaching significance (Case 3 at .099 and case 8 at .087). Principals who had earned a degree in journalism answered only cases 2, 6, and 7 incorrectly; they scored 100% on all items except cases 2, 6, and 7.

Item No.	Had Not Studied Journalism	Had 1 or 2 Courses in Journalism	Had a Degree in Journalism
1	68%	60%	100%
2	10%	20%	0
3	16%	30%	100%
4	84%	90%	100%
5	74%	60%	100%
6	13%	20%	0
7	74%	90%	0
8	35%	70%	100%
9	90%	100%	100%
10	48%	70%	100%
Mean	51.2	61.0	70.0

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 13

"Have you had any experience with distribution of (an) underground newspaper(s) on or near your campus?"

For each of the ten case items no significant difference was found between the number of correct responses by principals who had had experience with the distribution of an underground newspaper on or near their high school campus as compared to principals who had not. (Note: the number of principals with such experience did not exceed 17.)

Item No.	Had Experience	Had No Experience
1	52%	76%
2	18%	8%
3	24%	20%
4	82%	88%
5	71%	72%
6	18%	12%
7	76%	76%
8	35%	52%
9	94%	92%
10	65%	48%
Mean	53.5	54.4

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 14

"Have you ever been an adviser for a high school newspaper?"

Whether or not a principal had been a sponsor or adviser for a high school newspaper was not significant in terms of the number of correct responses for all ten of the case items as compared to the number of correct responses by principals without such experience.

Item No.	Had been an Adviser	Had Not been an Adviser
1	60%	69%
2	10%	13%
3	10%	25%
4	100%	81%
5	80%	69%
6	10%	16%
7	60%	81%
8	50%	44%
9	100%	91%
10	60%	53%
Mean	54.0	54.2

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 15

"Have you experienced any problems similar to those on the checklist?"

There was no significant difference between the number of correct responses on the ten case items by principals who had experienced problems similar to those items and the number of correct responses by principals who had not experienced similar problems. (Note: Very few principals had experienced similar problems.)

Item No.	Had experienced similar problems	Had not experienced similar problems
1	67%	67%
2	9%	22%
3	21%	22%
4	88%	78%
5	70%	78%
6	15%	11%
7	76%	77%
8	43%	55%
9	91%	100%
10	48%	78%
Mean	52.8	58.8

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 16

"Have you had a course in communication law?"

When the number of correct responses to this item by principals who had a course in communications law was compared with the number by principals without such a course, no significant difference was found. However, the difference on case item 7 was approaching significance (.07). The principals who had not had the law course scored 80% correct, and the others scored 33%.

Item No.	Had had communication law course	Had not had communication law course
1	67%	67%
2	33%	10%
3	33%	21%
4	67%	87%
5	67%	72%
6	0%	15%
7	33%	80%
8	33%	46%
9	100%	92%
10	67%	54%
Mean	50.0	54.4

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Quesionnaire Item 17

"Have you had a course in education law?"

On only case item 2 did the difference approach significance (.06) when the number of correct responses to the case items by principals who had had a course in education law was compared with the number by principals who had not had an education law course.

Item No.	Had had education law course	Had not had education law course
1	61%	82%
2	6%	27%
3	19%	27%
4	87%	81%
5	68%	82%
6	13%	18%
7	77%	73%
8	52%	27%
9	94%	92%
10	52%	64%
Mean	52.9	57.3

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 18

"How many years of experience have you had as a high-school principal?"

With the exception of case item 6 there were no significant differences in the numbers of correct responses by principals in terms of ranges of years of experience as a principal. For case item 6 there was a significant difference at the .05 level. The principals with 20-plus years of experience scored highest (50%). The principals with 0-3 years scored second highest (25%).

Item No.	0-3	4-10	11-20	20+
1	83%	50%	70%	75%
2	8%	6%	30%	0%
3	33%	13%	20%	25%
4	67%	94%	90%	100%
5	84%	69%	60%	75%
6	25%	6%	0%	50%
7	67%	81%	80%	75%
8	58%	43%	50%	0%
9	100%	88%	90%	100%
10	67%	38%	70%	50%
Mean	59.2	48.8	56.0	55.0

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 19

"Is your school newspaper financed in part from advertising?"

The number of correct responses to the ten case items by principals whose school newspaper is financed in part by advertising did not differ significantly from the number of correct responses by principals without such support.

Item No.	Advertising	No Advertising
1	61%	82%
2	13%	9%
3	25%	9%
4	81%	100%
5	68%	82%
6	16%	9%
7	77%	73%
8	39%	64%
9	94%	91%
10	55%	55%
Mean	52.9	57.4

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 20

"Does your school have a school publications editorial board?"

There was no significant difference in the number of correct responses to each of the ten case items by principals utilizing an editorial board for their school publications and the number of correct responses made by principals operating without such a board. (Note: Only a few principals utilized editorial boards.)

Item No.	With Board	Without Board
1	64%	68%
2	9%	13%
3	18%	23%
4	73%	90%
5	73%	71%
6	27%	10%
7	82%	75%
8	64%	39%
9	100%	90%
10	73%	48%
Mean	58.3	52.7

Percentage of Correct Responses to Case Items 1 Through 10 In Relation to Questionnaire Item 21

"Your sex:"

The chi-square analyses for the sex variable were not meaningful because only one female was involved.

DISCUSSION

Because every case is relatively unique, no one can say with certainty how a judge will rule. Therefore, in the absence of specific and narrowly drawn school or board regulations, the "correct" response given for each of the ten case items used in this study is a subjective judgment of the authors. Their decisions were based on a study of cases, the literature on those cases, and expert opinions obtained.

The principals had the lowest mean score on the ten case items. They had the highest score on only case 5, while the advisers scored highest on four and the student editors on six. While the figures tended to indicate a lack of knowledge of the principles of the law, the authors were led by the principals' open-ended statements to believe that the principals were aware of the "correct" response but frequently answered in terms of their personal values or their perception of the mores of their community. The authors believe that the contradictory scores on case 1 (high) and case 2 (low) support this belief. Both case 1 and case 2 were based on relatively the same law principles. The low scores on case 2 seemed, to the authors, to be a function of the personal and emotional involvement of the respondents in terms of school authorities and situations involved. I.e., on one of the questionnaires the principal commented that the items should have asked "SHOULD" the principal stop publication rather than asking "CAN" he do so. In other words, the principals answered in terms of how they felt rather than what they knew.

Principals who had been employed as journalists tended to respond more knowledgeably to the case items than did those without such experience. (See Item 11 in the Findings.) Principals who had had courses or had earned a degree in journalism displayed a better grasp of case principles. (See Item 12.) Only 17 of the principals had had experience with distribution of underground newspapers by students, and their responses did not differ significantly from the responses of those without such experiences. (See Item 13.) The fact that a principal had been a high-school newspaper adviser did not seem to affect his score. (See Item 14.) Very few principals had experienced problems similar to the ten items, and those who had had such problems did not score as well. (See Item 15.) The principals who had had a course in communications law scored lower than those who had not. (See Item 16.) Again, principals who had had a course in education law did not score as well as those who had not. (See Item 17.) Principals with 0-3 and 11-20 years of experience scored slightly better than those with 4-10 and 20-plus. (See Item 18.) Whether or not income from advertising contributes to support of their high-school newspaper did not seem to make a significant difference in the principals' responses. (See Item 19.) Principals who had utilized an editorial advisory board for their student newspaper had a better score (but not significantly so) than those with no board. (See Item 20.) Data relating to sex were not relevant because only one principal was female. (See Item 20.)

CONCLUSIONS

If the lack of knowledge displayed by principals in this survey was not the result of their answering the case items on the basis of their values or their perceptions of community expectations, then more attention needs to be given in education law courses to First Amendment Freedom and the student press. The data indicate a need for inservice education programs cooperatively

offered by schools of journalism and education.

RECOMMENDATIONS

Principals could forestall many potentially litigious situations by utilizing editorial advisory boards, by employing advisers who have had journalism education, by developing legal and implementable guidelines, and by engaging in some inservice education such as the programs offered through journalism extension, the training programs of the National Academy for School Executives (AASA), or the seminars by the National Organization on Legal Problems of Education.

[NOTE: This report is the first of a series based on the authors' survey. Subsequent reports will deal similarly with advisers, student editors, and the three groups in interaction.]

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